

**UNITED STATES JUDICIAL PANEL**  
**on**  
**MULTIDISTRICT LITIGATION**

**IN RE: DePUY ORTHOPAEDICS, INC., PINNACLE HIP  
IMPLANT PRODUCTS LIABILITY LITIGATION**

Constance Carey-Broomfield v. DePuy Orthopaedics, Inc., et al.,     )  
E.D. Virginia, C.A. No. 1:11-01285                                     )     MDL No. 2244

**TRANSFER ORDER**

**Before the Panel:**\* Pursuant to Panel Rule 7.1, plaintiff in an action pending in the Eastern District of Virginia moves to vacate our order that conditionally transferred the action to MDL No. 2244.<sup>1</sup> Defendants DePuy Orthopaedics, Inc., and Johnson & Johnson oppose the motion.

After considering all argument of counsel, we find this action involves common questions of fact with the actions previously transferred to MDL No. 2244, and that transfer will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation. Moreover, transfer is warranted for reasons set out in our order directing centralization. In that order, we held that the Northern District of Texas was an appropriate Section 1407 forum for actions sharing factual questions arising from alleged injuries from DePuy's Pinnacle Acetabular Cup System hip implants. *See In re DePuy Orthopaedics, Inc., Pinnacle Hip Implant Prods. Liab. Litig.*, 787 F.Supp. 2d 1358 (J.P.M.L. May 23, 2011). This action involves injuries from implantation of a DePuy Pinnacle Acetabular Cup System hip implant and clearly falls with the MDL's ambit.

Plaintiff does not dispute that her action shares questions of fact concerning Pinnacle hip implants with actions pending in MDL No. 2244. Plaintiff instead bases her arguments against transfer primarily on the pendency of her motion to remand the action to state court. Plaintiff can present her motion for remand to the transferee judge.<sup>2</sup> *See, e.g., In re Ivy*, 901 F.2d 7 (2nd Cir. 1990); *In re Prudential Ins. Co. of Am. Sales Practices Litig.*, 170 F.Supp. 2d 1346, 1347-48 (J.P.M.L. 2001).

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\* Judge John G. Heyburn II did not participate in the decision of this matter.

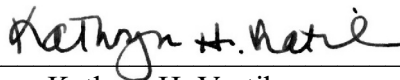
<sup>1</sup> An additional action in this docket, *Dennis Robinson v. DePuy Orthopaedics, Inc., et al.*, W.D. Virginia, C.A. No. 3:12-00003, was included on the Panel's March 29, 2012, hearing session order but will be considered at the next Panel hearing session on May 31, 2012.

<sup>2</sup> Panel Rule 2.1(d) expressly provides that the pendency of a conditional transfer order does not limit the pretrial jurisdiction of the court in which the subject action is pending. Between the date a remand motion is filed and the date that transfer of the action to the MDL is finalized, a court wishing to rule upon the remand motion generally has adequate time in which to do so.

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IT IS THEREFORE ORDERED that pursuant to 28 U.S.C. § 1407, this action is transferred to the Northern District of Texas and, with the consent of that court, assigned to the Honorable James E. Kinkeade for inclusion in the coordinated or consolidated pretrial proceedings.

PANEL ON MULTIDISTRICT LITIGATION

A handwritten signature in black ink, appearing to read "Kathryn H. Vratil", is positioned above a horizontal line.

Kathryn H. Vratil  
Acting Chairman

W. Royal Furgeson, Jr.  
Paul J. Barbadoro  
Charles R. Breyer

Barbara S. Jones  
Marjorie O. Rendell